

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SMITHKLINE BEECHAM CORPORATION,	No. C 07-5702 CW
Plaintiff,	ORDER DENYING
v.	PLAINTIFF'S MOTION
ABBOTT LABORATORIES,	FOR LEAVE TO FILE
Defendant.	UNDER SEAL (DOCKET
	NO. 52)

Plaintiff GlaxoSmithKline (GSK) has moved for leave to file under seal the following material: 1) portions of its brief in opposition to Defendant Abbott Laboratories' motion to transfer this case to Illinois; 2) portions of the Declaration of Sara Bason in support of its opposition; and 3) Exhibit C to the Declaration of Trevor Stockinger in support of its opposition. Because the public interest favors filing all court documents in the public record, any party seeking to file a document under seal must demonstrate good cause to do so.¹ This cannot be established

¹A "compelling interest" standard applies to documents filed in support of or opposition to a dispositive motion. Pintos v. Pac. Creditors Ass'n, 504 F.3d 792, 801-03 (9th Cir. 2007).

1 simply by showing that the document is subject to a protective
2 order, but rather must be supported by a sworn declaration
3 demonstrating with particularity the need to file each document
4 under seal. See Local Rule 79-5(a). If good cause exists only to
5 file portions of a particular document under seal, a redacted
6 version of the document must be filed in the public record. Local
7 Rule 79-5(c).

8 Exhibit C to the Stockinger Declaration was designated as
9 confidential by Abbott. Abbott, however, has not filed a
10 declaration establishing good cause to file this document under
11 seal, as it was required to do within five days of GSK's request.
12 See Local Rule 79-5(d). Nor does the fact that Abbott has
13 designated the material as subject to the stipulated protective
14 order in the related 04-1511 case establish good cause to file it
15 under seal. See Local Rule 79-5(a).

16 The relevant portion of the Bason Declaration contains
17 information regarding the relative sales of GSK's protease
18 inhibitors in California and Illinois. While good cause may exist
19 to file some of GSK's sensitive financial information under seal,
20 the Court finds that GSK would not be harmed by filing the
21 particular information in the Bason Declaration in the public
22 record. Accordingly, this document may not be filed under seal.

23 GSK seeks to file its opposition brief under seal because the
24 brief refers to information in the other exhibits discussed above.
25 Because neither of those exhibits may be filed under seal, the
26 brief may not be filed under seal, either.

27 For these reasons, GSK's motion for leave to file under seal
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1 is DENIED. Because Abbott has not filed the declaration required
2 by Local Rule 79-5(d), pursuant to that rule, GSK shall file in the
3 public record Exhibit C to the Stockinger Declaration. Pursuant to
4 Local Rule 79-5(e), GSK may file the unredacted versions of its
5 opposition brief and the Bason Declaration in the public record
6 within three days or, if it wishes, it may rely on the already-
7 filed redacted versions of these documents, in which case the
8 redacted information will not be part of the record and will not be
9 considered by the Court in connection with Abbott's motion to
10 transfer. The clerk shall hold the lodged documents for three days
11 for GSK to retrieve them, and, thereafter, if they are not
12 retrieved, dispose of them.

13 IT IS SO ORDERED.

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15 Dated: 3/24/08



16 CLAUDIA WILKEN
17 United States District Judge
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